IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 394 OF 2006

SHRI ILARIO AGOSTINHO MENEZES ....Petitioner
THROUGH DULY CONSTITUTED ATTORNEY
MRS. VIRGINIA RODRIGUES, SALCETE
GOA

Versus

STATE OF GOA,THROUGH ITS CHIEF ....Respondents
SECRETARY AND 3 ORS.,

Mr. M.S. Sonak, Advocate for the petitioners.

Mr. Kantak, AG for the respondents.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 20th November, 2006

ORAL ORDER:

Heard.

2. The petitioner challenges the notification no.22/18/2006-RD dated 8.6.2006 under which the petitioner's property surveyed under no.32/2 admeasuring 260 square meters filed for the public purpose i.e. land acquisition for onstruction of Novembhat main Mandop in Village Sarzora and Awado in Cuncolim Village of Salcete Taluka.

3. The main grievance of the petitioners is that the State has invoked the urgency clause as provided under section 17(1) and 17(4) of the Land Acquisition Act thereby dispensing with the provisions of section 5-A of the said Act, so as to deprive the petitioner of his right to object to the

acquisition who is affected by the said notification. It is contended that section 5-A of the said Act provides a valuable opportunity to the person to raise objection which otherwise cannot be exercised.

4. It is the contention of the petitioner that the acquisition was not of the nature so as to invoke the urgency clause and it is with the oblique motive to benefit his neighbour with whom he had litigation and that this road is being constructed for providing additional access to the said survey no.32/2 and 32/5.

5. In reply, the State has specified the reasons for invoking the urgency clause and it is contended that as there was a long pending demand from the people in the locality as well as the Panchayat, it was for this reasons and with a view to provide public with a road, section 17(4) came to be invoked.

6. It is also brought to the notice of the Court that the acquisition is not restricted to the land of the petitioner but extended to 7196 square meters from the other property belonging to various people. It is only the petitioner who has challenged the said acquisition on this ground.

7. The attention of the Court is also drawn to the fact that while giving technical approval to the proposed construction of the petitioner, it was subjected to the Panchayat maintaining the 3 meters access shown on the site plan to be maintained on the northern side of the proposed plan which is the subject matter of the acquisition. The site plan is also placed on record.

8. We are satisfied that in the given facts and circumstances, the State was justified in invoking the urgency clause and the allegations made by the petitioner that the acquisition is only for the purpose of benefiting his neighbour with whom he had litigation to provide them with additional

access, cannot be sustained as the proposed road for which acquisition has been notified is not restricted to the property of the petitioner.

9. Therefore, there is no merits in the petition.

10. The petition is dismissed.

J. N. PATEL, J.

N. A. BRITTO, J.

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